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THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Atty Dkt. 2380-307

C# M#

DAHLMAN et al.

TC/A.U. 2668

Serial No. 09/825,353

Examiner: Hanh N. Nguyen

Filed: April 4, 2001

Date: February 3, 2006

Title: A CELLULAR RADIO COMMUNICATION SYSTEM WITH FREQUENCY REUSE

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

REQUEST FOR RECONSIDERATION

This is a response/amendment/letter in the above-identified application and includes an attachment which is hereby incorporated by reference and the signature below serves as the signature to the attachment in the absence of any other signature thereon.

☐ **Correspondence Address Indication Form Attached.**

Fees are attached as calculated below:

Total effective claims after amendment **35** minus highest number
previously paid for **35** (at least 20) = 0 x \$50.00 \$0.00 (1202)/\$0.00 (2202) \$

Independent claims after amendment **5** minus highest number
previously paid for **5** (at least 3) = 0 x \$200.00 \$0.00 (1201)/\$0.00 (2201) \$

If proper multiple dependent claims now added for first time, (ignore improper); add
\$360.00 (1203)/\$180.00 (2203) \$

Petition is hereby made to extend the current due date so as to cover the filing date of this
paper and attachment(s)
One Month Extension \$120.00 (1251)/\$60.00 (2251)
Two Month Extensions \$450.00 (1252)/\$225.00 (2252)
Three Month Extensions \$1020.00 (1253)/\$510.00 (2253)
Four Month Extensions \$1590.00 (1254)/\$795.00 (2254)
Five Month Extensions \$2160.00 (1255)/\$1080.00 (2255) \$

Terminal disclaimer enclosed, add \$130.00 (1814)/ \$65.00 (2814) \$

☐ Applicant claims "small entity" status. ☐ Statement filed herewith

Rule 56 Information Disclosure Statement Filing Fee \$180.00 (1806) \$

Assignment Recording Fee \$40.00 (8021) \$

Other: \$

TOTAL FEE ENCLOSED \$ 0.00

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140. A duplicate copy of this sheet is attached.

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NIXON & VANDERHYE P.C.
By Atty: John R. Lastova, Reg. No. 33,149

Signature: _____



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

DAHLMAN et al.

Atty. Ref.: 2380-307; Confirmation No. 1424

Appl. No. 09/825,353

TC/A.U. 2668

Filed: April 4, 2001

Examiner: Hanh N. Nguyen

For: A CELLULAR RADIO COMMUNICATION SYSTEM WITH FREQUENCY
REUSE

* * * * *

February 3, 2006

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

REQUEST FOR RECONSIDERATION

Responsive to the Official Action dated November 3, 2005, Applicants
respectfully request reconsideration.

Claims 1, 6-9, 12, 17-22, 24, 26-28, 30, 33-36 stand rejected under 35 U.S.C. §103
as being unpatentable over commonly-assigned U.S. Patent 6,823,170 to Dent in view of
U.S. Patent 6,888,805 to Bender et al. This rejection is respectfully traversed.

The Examiner's rejection is deficient for both procedural and substantive reasons.
Procedurally, the commonly-assigned Dent patent is not prior art pursuant to 35 U.S.C.
§103(c). Since Dent's U.S. Patent qualifies as prior art only under §102(e), §103(c) says
that the Dent patent "shall not preclude patentability under this section where the subject

matter and the claimed invention were, at the time invention was made, owned by the same person or subject to an obligation of assignment to the same person." In this instance, the subject matter of the Dent patent and the claimed invention, were at the time the invention was made, owned by or subject to an obligation of assignment to Telefonaktiebolaget LM Ericsson (publ). Accordingly, the U.S. Dent patent is not available as prior art, and therefore, all of the rejections should be withdrawn because they rely on Dent as the primary reference.

Substantively, the Examiner argues that Dent's frequencies F1 and F2 correspond to the claimed first and second frequency reuses. But this is not the case. In Dent, F1 and F2 correspond to two different frequency bands. A frequency channel used for communication is not the same as a frequency reuse in which the same carrier frequencies are used in multiple common geographically different areas over which the system provides coverage. These different areas are separated from one other by a sufficient distance so that co-channel interference is less than a particular threshold. For the Examiner's information, Figure 7A illustrates an example where the frequency reuse is equal to 1, and Figure 7B illustrates an example where the frequency reuse is greater than 1. The text in Dent at column 4 and column 5 relied on by the Examiner says nothing about frequency reuse. It simply indicates that one frequency channel is used in the forward link, F1, and another frequency channel is used in the reverse link, F2.


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The rejections based on Dent are improper and should be withdrawn. The application is in condition for allowance. An early notice to that effect is earnestly solicited.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: _____



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